

REMARKS

This application is amended in a manner to place it condition for allowance.

Claims 1-16 are amended as to form only so as to clarify the claimed invention.

Claims 1-16 are pending.

The Official Action does not enter the foreign priority because the foreign priority claim was not filed during the time period set forth in 37 CFR 1.55(a)(1). However, the present application was filed under 35 USC 371, which requires that the claim for priority is made within the time limit set forth in the PCT, i.e., PCT 17.1, which requires that the document is filed 16 months from the priority date claimed.

The Examiner's attention is respectfully directed to the priority date stated on the International Application documents as well as the Application Data Sheet, and the copy of the foreign priority document in the present application with the date of receipt stamped on the first page. The priority date claimed is April 10, 2003, and the certified copy of the foreign priority document was received by the International Search Authority on June 18, 2004.

Therefore, entry of the foreign priority is respectfully requested.

Claims 1-16 are objected to for informalities.

Specifically, the Official Actions states that "device" in the preamble should be re-written as "system" because the "device" as claimed comprises both an implant and an apparatus for delivering the implant. However, this is not consistent with the terminology generally used throughout the specification. The disclosed invention is a device (21), which comprises an vessel dilation device (1) and an implant (10). Accordingly, in order to be consistent with the originally filed specification, the claims are not amended to "system" claims.

Additionally, claim 1 is objected to for reciting "it is provided". Although this recitation is believed to be readily understood in view of the present specification and drawings, claim 1 and the dependent claims are amended to clarify "it" or "its".

Therefore, withdrawal of the objection is respectfully requested.

Claims 1-5, 11, 15 and 16 are rejected under 35 USC §102(b) as being anticipated by VARGAS et al. 2002/0042622 ("VARGAS"). This rejection is respectfully traversed.

VARGAS discloses a medical device for performing anastomosis, i.e., vascular anastomosis is a procedure by which two blood vessels are joined together. The device comprises a trocar (152) to transfix the wall of a blood vessel and anastomosis device (120).

The trocar (152) comprises a tapered distal end which has slots for its opening. The tapered distal end is introduced through the wall of the vessel.

The proximal end of the anastomosis device (120) is tied to an holder tube (154). The anastomosis device (120) is not expanded yet so it does not press against the internal wall of the trocar (152). When the holder tube (154) is pushed, it presses against the internal wall of the tapered distal end of the trocar leading to its opening. The anastomosis device (120) is then expanded by the translation of an expander tube (156).

When undertaking the introduction procedure with the VARGAS device, there is a rapid variation in diameter which may be prejudicial to the continuity of movement.

Actually, when the tapered distal end is introduced through the vessels wall, the translation of the holder tube through the trocar leads to the opening of the tapered distal end and to the dilaceration of the vessel's wall. Then, the trocar is pulled out and the anastomosis device is expanded by the expander tube through the vessel's wall. Therefore, there is a difference between the diameter of the opened tapered distal end and the diameter of the anastomosis device which is not yet expanded.

However, the presently claimed device overcomes this disadvantage.

The claimed device is easier and quicker to use. The expendable element is maintained compressed against the internal

wall of the outer shell, the variation in the diameter of the expendable element followed the variation in diameter of the nose, avoiding the "jump" when implant is released.

Indeed, the VARGAS device can be defined by a "push out" type while the device of the present invention is a "block and pull" type.

Thus, VARGAS cannot disclose the claimed outer shell able to contain an expandable element of the implant (e.g., claimed item (24)) nor the opening of the tapered distal end by the implant.

Therefore, VARGAS does not anticipate the claimed invention, and withdrawal of the rejection is respectfully requested.

Claims 1-16 are rejected under 35 USC §103(a) as being unpatentable over GARZA et al. US 4,665,918 ("GARZA") in view of MARTINEZ et al. US 5,593,412 ("MARTINEZ"). This rejection is respectfully traversed.

The claimed invention is unobvious over the combination of GARZA and MARTINEZ, as there would have been no reason to combine these documents.

While the devices disclosed in these two documents may both find their use in the medical field, the devices are unrelated, as they are not concerned with the same technology.

GARZA discloses an introducer for endovascular prosthesis: the prosthesis is auto-expandable, the introducer and

the prosthesis are arranged to allow the use of a guide wire through them.

MARTINEZ discloses a stent delivery apparatus. The stent is expanded by a balloon. This technology does not allow the use of a guide wire.

Indeed, the use of a balloon as disclosed by MARTINEZ is not compatible with a coaxial channel for the introduction of the guide wire as disclosed by GARZA.

Thus, it would have not been obvious for of ordinary skill in the art to combine these two documents.

Moreover, even if one skilled in the art would have tried to combine the two documents, one would have not obtained the claimed device.

Actually, Martinez does not disclose the opening of the nose by the stent, but by the balloon that presses against the internal wall of the nose leading to its opening.

Therefore, the proposed combination cannot render obvious the claimed invention, and withdrawal of the rejection is respectfully requested.

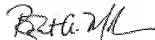
In view of the amendment to the claims and the foregoing remarks, the present application is in condition for allowance at the time of the next Official action. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional
fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- ☒ - a new or amended Abstract of the Disclosure